

DELEGATE JAMES (presiding): Delegate Bamberger.

DELEGATE BAMBERGER: At least in that respect you would not object to 5-B if we remove from it its exclusion of cases punishable by death or life imprisonment?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: I would object to it. We do not need it. The old language is sufficient.

DELEGATE JAMES (presiding): Delegate Bamberger.

DELEGATE BAMBERGER: You say the old language implicitly gives the right to bail in cases which are punishable by death or life imprisonment?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: It has been so interpreted by the rules and statute.

DELEGATE BAMBERGER: In what other respect does section 5-B state rights which are not implicit in section 8?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: Well, as I tried to explain, section 5-B says that he must be permitted, or must be entitled to release no matter what crime he has committed, just so it is not capital. It gives the judge no discretion as to whether or not he should release him, whether or not he is wanted in several other states.

DELEGATE JAMES (presiding): Delegate Bamberger.

DELEGATE BAMBERGER: How do you reconcile the proposition that a judge may deny bail on the grounds that the defendant has committed a crime and may repeat that crime with the proposition, the foundation of our law, that every man is presumed innocent until proved guilty?

Are you suggesting that a judge may before trial, hold a person on the grounds that he has committed a particularly distasteful crime?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: No, but his record has a whole lot to do with it.

DELEGATE JAMES (presiding): Delegate Bamberger.

DELEGATE BAMBERGER: Then I ask you how you reconcile that proposition with the presumption of innocence?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: Well, a matter of fixing bail has nothing to do with the presumption of innocence. He is entitled to bail under certain conditions. I mean, the amount of his bail is the only thing that the judicial officer has to pass upon.

DELEGATE JAMES (presiding): Delegate Sherbow.

DELEGATE SHERBOW: Delegate Child, in line with Delegate Key's questions, is it not a fact that under this provision an accused is mandated to release, no matter what the crime may be, no matter how dangerous he may be to society or to himself, provided only that the court can set the bail and the terms to bring him back?

How can you incarcerate a man and set terms to bring him back?

DELEGATE CHILD: Well, I think that is true, yes, sir.

DELEGATE JAMES (presiding): Judge Sherbow, are you in agreement with Judge Child's interpretation of the language?

DELEGATE SHERBOW: Absolutely. I do not want to debate it now. I do not want to fall in the error of some of my brothers who are debating with Delegate Child.

DELEGATE JAMES (presiding): Delegate Chabot.

DELEGATE CHABOT: Judge Child, I was a bit confused by some of your answers to Delegate Gill.

Let us assume for the moment that 5-B would be stricken from this bill of rights. Now, would you say that the judge would decide not to release an insane person by setting a high bail for him, or would the situation be that an insane person would not be released because he would be committed to the examination of some psychiatrist?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: If a person were brought before a judge and the judge had any doubt of his sanity or could see pretty well that he was dealing with an insane person, rather than release him on bail, he would commit him somewhere where he would not be of danger to himself or to